



Sales Tax Information for Vehicle & Watercraft Dealers and Body & Repair Shops

Utah State Tax Commission

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Sales and Use Tax General Information

Introduction

This publication is a general guide. It provides basic sales and use tax information, but is not all-inclusive. It includes Utah tax law and administrative rules written by the Utah State Tax Commission. Future changes to the laws or rules will supercede information in this document.

Utah Tax Code

Utah Tax Code is officially published by Matthew Bender & Co., Inc. under the trademark LexisNexis. The online site requires a subscription fee to access its services. Individuals or businesses may contact the publisher directly to order a hardcopy at:

Matthew Bender & Co., Inc.
Attn: Customer Support
1275 Broadway
Albany, NY 12204-2694
1-800-562-1197

Utah Code, Title 59, Revenue and Taxation, is available free of charge at the Utah Legislature's homepage (see www.le.state.ut.us/~code/title59/title59.htm). The state makes every effort to maintain current information; however, published code found at LexisNexis may be more current than the information found at the state site.

What is Sales and Use Tax?

Sales Tax

Sales tax is a tax on the retail sale or lease of all tangible personal property and on certain services. Sales tax is collected by a Utah licensed retailer or seller, and is paid to the Tax Commission on monthly, quarterly or annual tax returns. For more specific information, refer to Utah Code §59-12-103 and Administrative Rules R865-12L, R865-19S, and R865-21U.

Use Tax

Use tax is a tax on amounts paid or charged for purchases of tangible personal property and for certain services where sales tax was due but not charged. The purchaser remits use tax directly to the Tax Commission. Examples of activities that trigger use tax liabilities include withdrawal of items from resale inventories and other consumption of goods or services purchased tax-free.

Use tax must be accrued and paid on certain purchases from unregistered out-of-Utah sellers. Some of the more common items for use tax reporting include advertising supplies, office or shop equipment, computer hardware and software, and office supplies.

Sales and use taxes are transaction taxes. This means the tax is not on the articles sold or furnished, but on the transaction, and the purchaser is the actual taxpayer. The seller is charged with collecting the tax from the purchaser and paying the tax to Utah.

In cases where the seller does not charge the tax, it becomes use tax and the purchaser is responsible to report and remit the tax.

Filing and Reporting Requirements

Sales Tax License

All retailers must have a Utah Sales Tax License and related account number. Application for a license and account number is made to the Tax Commission on a Utah State Business and Tax Registration form, TC-69 or online using OneStop Business Registration, found at business.utah.gov/registration.

Examples of businesses that typically must register for a sales tax license include: retailers selling tangible goods or services, wholesalers purchasing resale inventory, manufacturers, leasing companies, and consumers such as professional firms and construction contractors.

Sales tax licenses are not transferable.

How To Close a Sales Tax Account

Every sales tax license holder that discontinues business in Utah is required to notify the Tax Commission immediately in writing. Businesses may contact the Taxpayer Services Division of the Tax Commission for assistance in closing sales tax accounts. If the Tax Commission is not informed that the business has closed, the license holder may be assessed an estimated tax, including late penalties and interest.

How To Close an Outlet

If the account remains open, but an outlet location in Utah is closed, the sales tax license holder is required to notify the Tax Commission immediately in writing, identifying the effective date of the closure. Businesses may contact the Taxpayer Services Division of the Tax Commission for help in closing sales tax outlets. The closed outlet will no longer appear on the sales tax return generated and mailed to the account holder.

Notification of Liability

If you are purchasing a business, Utah Code §59-12-112 requires you to withhold enough of the purchase money to cover any taxes due and unpaid until the former owner of the business produces a receipt from the Tax Commission showing that all taxes have been paid, or a certificate showing no taxes are due. If you fail to withhold the required purchase money and the taxes remain due and unpaid 30 days after the business is sold, you will be personally liable for payment of the unpaid sales taxes of the former owner.

Filing Requirements

Nexus Filers

Nexus means a business entity has established a direct or representational presence within a particular state. This presence gives the state the right to require a seller to pay or collect and remit certain taxes. Businesses with Utah nexus must file sales tax returns even if they have no tax liability for a particular period.

Returns

Only one sales and use tax return is required for each filing period. Each return may include schedules that allow for multiple outlet sales and goods consumed to be reported on the return. If a seller is liable for sales-related taxes, such as transient room, tourism, waste tire, etc., a separate return must be filed for each period for each separate type of tax or fee. Returns are due on or before the last day of the month

following each filing period, unless the due date falls on a weekend or holiday. In that case, the return will be due the first working day following the end of the month.

The Tax Commission determines the filing frequency for sales and use tax returns. If your sales tax liability is less than \$1,000 per year, you may file annually. If your sales tax liability is \$1,000 or more but less than \$50,000 per year, you may file quarterly. If your sales tax liability is \$50,000 or more, you must file monthly. The Tax Commission will notify you if your filing frequency has changed.

Paper Returns

Once a license has been issued or a new tax imposed, the Tax Commission will mail a personalized return to each seller (unless the seller has requested no paper returns be mailed to them by the Tax Commission). However, if a seller does not receive a return, it is the seller's responsibility to obtain blank forms, file all appropriate returns, and pay the taxes by the due date. Returns must be filed even if the account holder has no tax liability for a particular filing period.

Online Sales Tax Return

Sellers have the option of filing their sales and use tax returns and schedules online using the TC-61 web application found at utah.gov/salestax. The Tax Commission will assign a PIN and print it on the TC-61 return that will allow access to the online application.

PaymentExpress

Whether periodic sales tax returns are filed electronically or on paper, sales tax can be electronically remitted to the Tax Commission using PaymentExpress available at paymentexpress.utah.gov.

PaymentExpress will accept payment for most tax types, including sales tax. Payment can be made by credit card (American Express, Discover, or MasterCard) or by electronic check (direct debit to a checking or savings account).

A convenience fee is applied to PaymentExpress transactions to cover costs associated with the electronic payment service. The convenience fee is \$1 for an electronic check payment. For credit card payments, the convenience fee varies depending on the amount paid. A complete convenience fee table is available on the PaymentExpress website in the Frequently Asked Questions section.

PaymentExpress is only for the payment of taxes and other amounts due. Be sure to file any tax return separately.

Electronic Funds Transfer (EFT)

If your annual sales tax liability is \$96,000 or more, payment must be made by Electronic Funds Transfer (EFT). EFT payments can be completed up to 30 days before the tax filing due date and withdrawn on the payment date you select. If you wait until the tax filing due date to make a payment, the payment must be completed by 7:00 p.m. Mountain Time, with a settlement date no later than the next business day. This account must be set up prior to making your payment. Contact the Tax Commission for information.

Caution: Filers who are required to pay by Electronic Funds Transfer (EFT) should not use the Tax Commission's web-based payment system (PaymentExpress) for current returns. Payments made online by credit card or electronic check do not meet EFT filing requirements. Sellers required to pay by EFT that use the online payment system for current returns will lose their seller discount. However, EFT filers may pay past-due liabilities online using PaymentExpress.

Seller Discount

Persons filing monthly sales tax returns are entitled to a seller discount equal to 1.31 percent of the combined sales tax. Persons filing monthly tourism tax returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Quarterly and annual filers are not eligible for the seller discount.

Penalties

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely. The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due. In addition, monthly returns filed late or underpaid returns will result in the loss of seller discount. For more information, see Publication 58, Utah Interest and Penalties at tax.utah.gov/forms/.

Purchasers or lessees who claim sales and use tax exemptions for purchases or leases of manufacturing machinery and equipment, normal operating replacements or semiconductor fabricating, processing, research or development materials are required to report the amount of such purchases or leases on the appropriate informational line of their periodic sales and use tax returns. Failure to comply with these reporting requirements may subject the responsible party to a penalty of the lesser of \$1,000 or 10 percent of the sales tax that would have been imposed if the exemption had not applied.

Interest

Interest will be assessed at the rate prescribed by law from the original due date until paid in full. For information, taxpayers may refer to Publication 58, Utah Interest and Penalties at tax.utah.gov/forms/, or call the Utah State Tax Commission.

Refund

A taxpayer can file a claim for a credit or a refund of an overpayment within three years of paying the tax, even though the taxpayer did not object to a notice of deficiency or a notice of assessment by the Tax Commission. If the Tax Commission denies this claim for credit or refund, the taxpayer may file a petition for agency action. A taxpayer may not, however, file a claim for a credit or a refund on a tax deficiency that has been previously adjudicated.

Each transaction for which a sales tax refund is requested must include: (1) requestor's name; (2) requestor's account number or federal ID number; (3) seller name; (4) seller account number; (5) seller location; (6) date of sale/purchase; (7) description of item(s) sold/purchased; (8) taxable amount; (9) tax paid; (10) basis for exemption from sales and use tax; (11) sales tax rate(s) and dates of remittance to Utah State Tax Commission; (12) copy of invoice(s) that show tax collected; and (13) copy of check(s) that verify payment of the invoice.

Record Keeping Requirements

From Tax Commission Rule R865-19S-22

Every retailer, lessor, or person doing business in Utah is required to keep complete records used to determine the amount of sales and use tax for which they are liable. Records must be retained for three years from the filing date of the tax returns. All records shall be open to the Tax Commission or its authorized agents for examination at any time.

These records shall:

- Show gross receipts from sales or rental payments from leases of tangible personal property, or services performed in connection with tangible personal property made in Utah regardless of whether the retailer considers the receipts to be taxable or non-taxable.
- Show deductions and exemptions allowed by law and claimed in filing sales tax returns.
- Show bills, invoices, or similar evidence of all tangible personal property purchased for sale, consumption, or lease in Utah.
- Include the normal account books maintained by an ordinarily prudent business person, together with supporting documents of original entry such as: bills, receipts, invoices, and cash register tapes. All schedules or working papers used in the preparation of tax returns must also be maintained.

Note: Any automated data processing (ADP) tax accounting system must be capable of reproducing visible and legible records for tax liability verification. General ledgers with source references should coincide with financial reports for each tax period. All supporting documentation should be easily accessible. Additional record keeping requirements can be found in Tax Commission Rule R861-1A-35.

Reminders

This information is only a summary and does not contain all sales or use tax laws and rules.

1. Sales tax must be collected on all taxable sales of tangible personal property to the final consumer.
2. You must file a sales and use tax return for every period, whether or not tax is due for a particular filing period.
3. If you change business locations, or add or close any outlets, you must notify the Tax Commission in writing.
4. If you discontinue business, you must notify the Tax Commission in writing within thirty days of the final date you were required to collect sales tax.
5. You must retain your records for three years.
6. Records are subject to audit by a Tax Commission representative.
7. Sales tax licenses are not transferable.
8. Merchandise purchased tax free but used or consumed by you or your company must be reported on the line provided on the sales and use tax return. You must pay use tax on goods you or your company consume.
9. A completed exemption certificate from your exempt customers must be retained in your files to verify nontaxable sales.
10. Interstate sales must be documented with a bill of lading or other proof of shipment. The terms of the sale must require shipment or delivery of the property across Utah's boundaries by the seller.
11. Tax must be rounded to a whole cent by rounding up to the next cent whenever the third decimal place is greater than four.

Sales-based Tax Types

Tax rates vary from one community to another depending on the taxes imposed by the individual community. Tax rates are available on the Tax Commission website at tax.utah.gov/sales/rates.html.

Combined Sales Tax Rate

The following taxes are included in the combined sales tax rate and are filed on the TC-61 Sales and Use Tax Return:

State Sales and Use Tax

The state sales and use tax rate is 4.75 percent and applies to taxable transactions in all locations within Utah.

Effective January 1, 2007 the state sales tax rate for food and food ingredients will be 2.75 percent. Food and food ingredients means substances sold for ingestion or chewing by humans that are consumed for the substance's taste or nutritional value. Food and food ingredients do not include alcoholic beverages, tobacco or food prepared for immediate consumption.

Local Option Sales and Use Tax

A local rate of 1 percent is imposed on taxable transactions within a community as established by local ordinance. This tax applies to the same transactions as the state sales and use tax.

County Option Sales and Use Tax

A county may impose a tax of .25 percent. This tax applies to the same transactions as the state sales and use tax.

Resort Communities Tax

A qualifying resort community may impose a tax of up to 1.5 percent on the sale, use or rental of taxable goods and services within the resort community, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. A community qualifies for the resort communities tax if transient room capacity in the community is greater than or equal to 66 percent of the permanent population of the community. The resort communities tax, if imposed, applies to sales subject to sales and use tax and is included in the combined tax rate.

Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes are exempt from resort communities tax, but are subject to the remaining portion of sales and use tax. This exemption, however, does not apply to trailers, off-highway vehicles, snowmobiles, truck-mounted campers, etc.

Rural Health Care Facilities Tax

Qualifying rural counties or cities may adopt a rural hospital tax of up to 1 percent. The tax is imposed on the sale of taxable goods and services sold within the adopting jurisdiction, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. This tax is part of the overall sales and use tax in certain localities, and is used to fund rural county and city hospitals, and qualified nursing homes.

Public Transit Tax

Counties, cities or districts that have a public transit system may adopt a public transit tax of up to .5 percent. Public transit tax applies in the same manner as the local sales and use tax.

Highways Tax

Counties, cities or communities that have not already adopted the public transit tax may adopt a highways tax of .25 percent. The highways tax applies in the same manner as the local sales and use tax.

Recreational Facilities and Botanical, Cultural, and Zoological Organizations Tax

Utah counties, cities or towns may impose a tax of .1 percent on all taxable sales and services in the county to fund these types of organizations.

Town Option Sales and Use Tax

Qualifying towns, as described in Utah Code §59-12-1302(2), may impose the town option sales and use tax of up to 1 percent. This tax applies in the same manner as the local sales and use tax. Currently, only the town of Snowville has imposed this tax.

Related Taxes and Fees

The following sales-related taxes and fees are filed on separate returns:

Tourism Tax

Where adopted, this tax is imposed on the following types of transactions:

- A restaurant tax of up to 1 percent may be imposed on all prepared foods and beverages sold by restaurants.

The term “restaurant” is defined as any retail establishment, other than a theater, whose business is the sale of foods and beverages for immediate consumption. Restaurant includes dinner theaters. See Utah Code §59-12-602(4) for more information.

Exception: In counties that have adopted the tourism tax, it does not apply to sales of food from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the store has seats or stools for customers. However, if a grocery store or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.

- A tourism tax of up to 7 percent may be imposed on all short-term motor vehicle rentals or leases. This applies to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, except:
 - leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
 - leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 or more pounds; or
 - leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as form TC-721, and retained by the lessor.

- In addition to the transient room tax discussed below, a county of the first class (counties with a population of 700,000 or more) may impose an additional tax of .5 percent on every rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. This is reported and remitted on form TC-61T.
- Persons filing monthly returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county.

Tourism tax is reported on form TC-61FV for monthly filers or form TC-61F for quarterly or annual filers.

Motor Vehicle Rental Tax

A statewide motor vehicle rental tax of 2.5 percent is charged on all short-term motor vehicle rentals or leases. This is in addition to the tourism tax, if adopted, of up to 7

percent on all short-term motor vehicle rentals or leases. The statewide motor vehicle rental tax of 2.5 percent is not eligible for a seller discount.

The statewide motor vehicle rental tax, and the tourism tax if adopted, apply to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, **except:**

- leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle being repaired pursuant to a repair or insurance agreement;
- leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 or more pounds; or
- leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as form TC-721, and retained by the lessor.

Motor vehicle rental tax is reported on form TC-61FV for monthly filers or form TC-61F for quarterly or annual filers.

Transient Room Tax

Utah counties may impose a transient room tax of up to 3 percent (effective October 1, 2006 up to 4.25 percent) on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. The transient room tax, if imposed, is charged in addition to sales tax and in addition to other applicable taxes adopted in the community. The transient room tax does not apply to charges for meeting rooms.

Some counties have also enacted a tourism tax on lodging, as noted above.

Each county may elect to collect the tax itself or contract with the Tax Commission to collect it. The published rate chart (see tax.utah.gov/sales/rates.html) identifies those counties that elect to collect the tax themselves.

Transient room tax is reported on form TC-61T, unless it is collected directly by the county.

Municipality Transient Room Taxes

In addition to the county-imposed transient room tax and the tourism tax on room rents, municipalities may impose taxes of up to 1.5 percent on rents charged for the same accommodations that are subject to the Transient Room Tax.

Each municipality may elect to collect the tax itself or contract with the Tax Commission to collect it. The published rate chart (see tax.utah.gov/sales/rates.html) identifies those municipalities that elect to collect the tax themselves.

Municipality transient room tax is reported on form TC-61T, unless it is collected directly by the municipality.

Convention Facilities Tax

The legislative body of a county within Utah that is of the first class (counties with a population of 700,000 or more) may impose a 1.25 percent sales tax on accommodations and services through Sept. 30, 2006, when the accommodations and services are regularly rented for less than 30 consecutive days. Revenue from the tax must be used for purposes relating to convention facilities.

Waste Tire Recycling Fee

A waste tire recycling fee of \$1 per tire with rim sizes up to and including 24½ inches is imposed on each purchase of new tires. The waste tire recycling fee is paid by the consum-

er to the tire retailer at the time of purchase. Both new and used vehicle dealers (including trailer and off-road vehicle dealers, in addition to automobile, truck and recreational vehicle dealers) are considered tire retailers for this purpose. The fee applies to all tires sold with a new vehicle. Dealers, at their option, may pay the fee to a tire dealer, provided they also pay sales tax on the purchase.

Sales tax exemptions do not apply to the recycling fee. Sales of tires or tires mounted on vehicles sold to governmental agencies or other normally exempt institutions are not exempt from this fee. The fee itself is not subject to sales tax. The fee does not apply to used tires, bicycle tires, or any tires attached to devices propelled by human power, nor does it apply to tires sold and delivered out of Utah. Tire retailers are allowed to retain 2.5 percent of the fees collected and reported to cover the cost of collection.

Waste tire recycling fee is reported on form TC-61W.

Other Information

The following miscellaneous taxes and fees may also apply to certain sellers. For more information, contact the Tax Commission.

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette, and tobacco products taxes
- Municipal energy sales and use tax
- Emergency services telephone charge (911 and poison control)
- Royalty payment on unprocessed brine shrimp eggs
- Multi-channel audio and video tax
- Sexually explicit business and escort service tax
- Municipal telecommunications license tax

Calculating Sales Tax

Definitions

Purchase Price and Sales Price (UCA §59-12-102(66))

Purchase price and **sales price** mean the total amount of consideration valued in money and for which tangible personal property or services are sold, leased, or rented.

Purchase price and sales price include:

- the seller's cost of the tangible personal property or services sold;
- expenses of the seller, including the cost of materials used; a labor cost; a service cost; interest; a loss; the cost of transportation to the seller; or a tax (including federal excise tax) imposed on the seller;
- a charge by the seller for any service necessary to complete the sale.

Purchase price and sales price do not include:

- a delivery charge;
- an installation charge;
- a discount in a form including: cash or term taken by a purchaser, or coupon that is allowed by a seller and that is not reimbursed by a third party;
- the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:

- a. the amount of a trade-in;
- b. the following from credit extended on the sale of tangible personal property or services: separately stated interest charges; financing charges; or carrying charges; or
- c. a tax or fee legally imposed directly on the consumer.

Tangible Personal Property

Tangible personal property is property that may be seen, weighed, measured, felt, touched, or is in any manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, prewritten software, and digital and electronic goods.

Real Property

Real property is classified as any right, title, estate, or interest in land, including all buildings or structures on the land.

Real property includes construction materials that typically lose their separate identity as personal property once incorporated into the real property. These include lumber, bricks, nails and cement used to construct buildings or structures on the land, as well as fixtures such as furnaces, built-in air conditioning systems, built-in appliances, or other items added to or incorporated into real property.

Tangible Personal Property Permanently Attached to Real Property

Tangible personal property is classified as permanently attached to real property if (1) the attachment is essential to use the tangible personal property, and (2) the tangible personal property will remain attached over its useful life. This includes attaching an accessory to the tangible personal property if it is essential to the operation of the tangible personal property and is attached solely for that purpose. This classification is further supported if (1) detachment would cause substantial damage to the tangible personal property, or (2) detachment would require substantial alteration or repair of the real property. The permanently attached tangible personal property retains its classification even if it is temporarily detached for repair or renovation onsite.

The permanently attached classification does not include (1) attaching portable or movable tangible personal property for convenience, stability, or for an obvious temporary purpose, or (2) detachment for repair or renovation other than onsite.

Also excluded from this classification is a refrigerator, washer, dryer, stove, television, computer or telephone if the attachment to real property is only through a line that supplies water, electricity, gas, telephone or cable.

Delivery Charges

Delivery charges means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. Purchase price and sales price of tangible personal property do not include delivery charges if separately stated.

Installation Charges

Installation charges means charges for permanently installing tangible personal property to real property. Installation charges do not include charges for repairs or renovations of tangible personal property. Purchase price and sales price of tangible personal property do not include an installation charge if separately stated.

Sales of real property are nontaxable. For tangible personal property that becomes part of the underlying realty upon installation, the transaction to purchase and install the tangible personal property is considered the sale of real property and, accordingly, is nontaxable. The contractor is considered to be the user of the materials and is responsible for paying sales and use tax.

Repair Charges

Repair charges means repair or renovation of tangible personal property that is not permanently attached to real property or attaching tangible personal property to other tangible personal property.

Charges for labor to repair, renovate, wash, or clean tangible personal property are subject to sales tax. Parts used to repair or renovate tangible personal property, whether or not the parts are actually used, are also subject to sales tax.

Charges for labor and parts used to service, repair, or renovate real property are not subject to tax. For real property repairs, the contractor is considered to be the user of the materials and is responsible for paying sales and use tax.

Taxes or Fees Imposed on the Seller

Current Utah law allows municipalities to impose and collect a license fee or tax on any business within the municipality. Examples of city-imposed taxes include a gross receipts tax on all businesses within the city and taxes directed at a particular category of business, such as innkeepers. City-imposed taxes (other than sales and use taxes imposed under the Utah Sales and Use Tax Act) must be included in the taxable sales reported on the state sales and use tax return. For example, a seller makes sales in a city that has imposed a two percent gross receipts tax on revenues. City and state taxes are calculated as follows.

Taxable sales	\$100.00
City imposed gross receipts tax @ 2%	<u>2.00</u>
Amount subject to state and local taxes	\$102.00
Applicable sales tax rate @ 6.125%	<u>x.06125</u>
State and local sales taxes remitted to the state	\$6.25
Transaction total (item cost plus taxes)	\$108.25

Determining Tax Base

Taxable Sales

Sales of tangible personal property and certain services to final consumers are taxable. The following transactions are taxable unless a specific exemption applies:

- Retail sales or purchases of tangible personal property made within Utah.
- Tangible personal property stored, used, or consumed in Utah.
- Rentals and leases of tangible personal property if the situs (location) of the tangible personal property is in this state, the lessee took possession of the tangible personal property in this state, or the tangible personal property is stored, used, or otherwise consumed in this state.
- Labor to repair, renovate, wash, clean, and attach tangible personal property in connection with other tangible personal property. This includes maintenance agreements.
- Laundry and dry cleaning services, other than coin-operated laundry and dry cleaning services.

- Admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity. User fees include charges for access to a video, video game, television program, or cable or satellite broadcast, if that access occurs at any location other than the individual's residence.
- Use of assisted amusement devices when the device or ride is started and stopped by an individual who is not the purchaser or renter of the device and is performing at the direction of the seller.
- Assisted cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual who is not the purchaser of the service and is performing at the direction of the seller.
- Tourist home, hotel, motel, or trailer court accommodations and services regularly rented for less than 30 consecutive days.
- Telegraph services and intrastate telephone service.
- Meals at restaurants or other eating places.
- Sales for commercial use of gas, electricity, heat, coal, fuel oil, or other fuels.
- Sales for residential use of gas, electricity, heat, coal, fuel oil, or other fuels are taxed at the state rate of 2 percent plus any local and/or public transit tax applicable.
- Sales of prepaid telephone calling cards, including vending machine sales of prepaid telephone calling cards.
- Memberships that entitle the purchaser to discounted or free merchandise or services of a type subject to the sales tax. Examples include memberships allowing the card holder to enter a facility and make purchases of merchandise at the stated price without any additional markup, and video memberships that allow members to rent videos at half price. All purchases made with these membership cards are subject to sales tax at the time of purchase unless a specific exemption applies.

Note: For more information on taxable sales and purchases, refer to the Additional Information section.

Determining Tax Rate (Sourcing)

Sourcing is defined as attributing a sale to a specific taxing jurisdiction in order to determine the tax rate to charge.

For sellers with one or more fixed places of business, sales are sourced to the place of business where the sales occur, regardless of whether the goods are delivered. For sellers with a non-fixed place of business (e.g. vending machine operators, mobile tool companies, etc.), sales will be sourced to where the sales take place. If a business sells merchandise that is shipped from outside Utah direct to a consumer in Utah, and if the seller engages in business in Utah (has nexus), then the sale is sourced to the location of the purchaser.

Tax Rate Changes

The Tax Commission will provide sellers with advance notice of rate changes by publishing the information on its website at tax.utah.gov/sales/rates.html. This site contains a list of rate changes and the current tax rate chart.

Tax rates and jurisdiction boundaries may change only at the beginning of a calendar quarter and will be posted 60 days prior to the effective date. Failure to receive notice does not relieve a seller of the obligation to collect sales and use tax at the correct rate.

Rate changes for services covering a period starting before and ending after the statutory effective date will be as follows:

- For a rate increase, the new rate applies to the seller's first billing period starting on or after the effective date.
- For a rate decrease, the new rate applies to the seller's bills issued on or after the effective date.

Example 1

A local dealer arranged an automobile lease contract for 36 months, and it accommodated the customer's wish that the payment be made mid-month. Halfway through the contract period, the sales tax rate increased, effective Oct 1, 2006, which increased the monthly lease payment. The payment made on Sep 15, 2006, for the period Aug 16 to Sep 15, was subject to the old tax rate. Since the next payment period, due Oct 15, was for the period that started Sep 16, before the rate went into effect, it was taxed at the old rate, even though the payment was made after the new rate went into effect. However, the following payment, due Nov 15, was for a period (Oct 16 to Nov 15) that started after the new rate went into effect, so was subject to the new rate, and therefore the customer paid the higher rate.

Example 2

Using the same scenario above, instead of a tax rate increase there was a tax rate decrease effective Oct 1. The payment due on Sep 15 was at the old higher rate. However, the payment due Oct 15 was at the new lower rate since the bill was issued after the rate went into effect, even though the period started before the effective date. The October and all subsequent bills were taxed at the new lower rate.

Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. Some of the more common exemptions are outlined below. For complete details on exemptions, refer to Utah Code §59-12-104. If a sale qualifies for an exemption that is either entity-based or use-based, the seller must obtain standard exemption information from the purchaser. Exemption information may be collected by the seller either electronically or on Utah State Tax Commission form TC-721, Exemption Certificate. If captured electronically, the same information for the specific exemption that is on form TC-721 must be retained. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used. Purchasers and sellers are allowed to use substitute forms if they contain the same information as Utah State Tax Commission form TC-721.

If the exemption is product based, no exemption certificate is necessary.

Entity-based Exemptions

An entity-based exemption is determined by who purchases or sells the product. An exemption certificate is required.

The following are exempt:

- Sales to United States and Utah government agencies. Currently, sales of construction materials to most Utah government agencies are exempt only if installed by the agencies' employees. Construction materials purchased by or on behalf of public elementary and secondary schools are exempt from the sales tax. The construction materials must be clearly identified and segregated, and they must be installed or converted into real property owned by the school. See Tax Commission Rule R865-19S-23 for information relating to documentation of sales to government agencies.

To qualify as a sale made to a U.S. or Utah government agency, the purchase must be made with the government entity's funds. A purchase does not qualify for this exemption if a government agency employee pays for the purchase with personal funds, even if the employee is reimbursed for the purchase by the government agency. Government employees traveling on official business are NOT exempt from these taxes unless they present:

- a properly completed exemption certificate;
- a check, purchase order, or voucher supplied by the U.S. or Utah government agency; or
- a U.S. government credit card (also called SmartPay cards). For detailed information on Federal government credit cards, please refer to FTA bulletin B-07/02, which can be found at www.taxadmin.org/fta/rate/b-0702.pdf

The sales tax exemption for purchases by Utah state and local government entities does NOT apply to purchases by a state other than Utah or to purchases by any local government entity located outside of Utah. Utah government purchases of items, other than travel, are tax exempt if purchased with a Utah state purchasing card or paid with a Utah state check. Purchasing cards are issued by US Bank. The cards display the Utah state seal, include the words "State of Utah Tax Exempt" and are imprinted with the individual purchaser's name and Utah state agency. While sellers are required to maintain evidence that a purchase qualifies for the sales tax exemption as a sale to the federal or Utah State government, this requirement is satisfied if the seller maintains a record of the qualifying credit card number, a copy of the government entity check, purchase order, or voucher, or a properly completed and signed form TC-721, Exemption Certificate.

- Sales made to or by:
 - an area agency on aging; or
 - a senior citizen center owned by a county, city or town; and
 - sales made by a senior citizen center that contracts with an area agency on aging.
- Certain enrolled members of Native American tribes (including the tribe itself) may purchase tax free if:
 - the member has a tribal card showing a Federal Bureau Number;
 - the sale is to an enrolled tribal member and delivery is taken on the member's own reservation (in the case of the Ute Indian Tribe, the sale must be made on or delivery must be made to tribal trust lands within the Uintah and Ouray reservations); and
 - in the case of sales to the tribe itself, a purchase order, exemption certificate, or similar evidence of tribal identity must be presented.

Sales of tangible personal property made off the reservation to enrolled members of the tribe are taxable. They are exempt from tax only if delivery is made to the reservation by the seller or a licensed common carrier.

- Foreign diplomats – Certain foreign diplomatic employees are exempt from sales tax to varying degrees. These diplomatic personnel are issued tax exemption cards by the U.S. Department of State. The cards are color-striped, indicating the type and/or amount of sales tax exemption. Bearers of cards with a green stripe are not exempt from taxes on hotel rooms. Sellers are instructed to retain a photocopy of the card for evidence of exemption. The cards are not valid to make exempt purchases of telephone service or other utility services; the U.S. Department of State issues special exemption certificates for such purposes.
- Feed, seed, baling ties, etc. sold to commercial agricultural producers.
- Sales of tangible personal property used or consumed primarily and directly in farming operations. Charges for labor and/or parts (including lubricating oil, antifreeze or other supplies) used to repair or maintain off-road machinery and equipment used primarily and directly in agricultural production are also exempt.
- Sales of electricity and fuel for industrial use as defined in Utah Code §59-12-102.
- Sale or lease of semiconductor fabricating, processing, research or development materials.
- Sales relating to schools and fundraising.
- Sales to religious or charitable institutions. In the case of sales of \$1,000 or more, or sales made pursuant to a contract between the seller and the religious or charitable institution, the exemption shall be at the point of sale. In all other cases, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale made by the religious or charitable institution directly to the Tax Commission.

To be eligible for the exemption, the organization must be recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, and must have obtained a sales tax exemption number from the Tax Commission. Religious and charitable organizations may apply to the Tax Commission for a refund of sales taxes paid by completing form TC-160.
- Sales of construction materials to a religious or charitable institution or to a contractor purchasing on behalf of a religious or charitable institution.

Use-based Exemptions

A use-based exemption is determined by the purchaser's use of the product. An exemption certificate is required.

The following are exempt:

- Sales of certain vehicles for exclusive use outside of Utah.
- Property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product.
- Sales for resale or lease. In addition, the lease of tangible personal property is exempt if it meets all of the following conditions:
 - the property is part of a sale-leaseback transaction;
 - sales or use tax was paid on the initial purchase of the property; and

- the leased property will be capitalized and the lease payments will be accounted for as payments made under a financing arrangement.
- Purchases of tangible personal property upon which a sales and use tax was paid to another state are exempt, except if the tax paid was lower than Utah's rate. If lower than Utah's rate, the purchaser must pay the difference. No adjustment or credit is allowed if the tax paid was greater than Utah's rate.
- Purchases of machinery and equipment used for normal operating replacements by a cogeneration facility as defined in Utah Code §54-2-1, or a qualified manufacturer or scrap recycler described in the Standard Industrial Classification Manual (SIC) classification 2000-3999. Purchasers of the qualifying machinery and equipment that fail to report this on the informational line of the Sales and Use Tax Return shall be penalized the lesser of \$1,000 or 10 percent of the sales and use tax that would have been imposed if the exemption had not applied.
- Normal operating repair or replacement parts with an economic life of three or more years that are used in Utah by a cogeneration facility as defined in Utah Code §54-2-1 or a qualified manufacturer or scrap recycler described in the Standard Industrial Classification Manual (SIC) classification 2000-3999.
- Charges for labor to repair or renovate tangible personal property are exempt from sales and use tax if the parts used in the repair or renovation are exempt from sales and use tax.
- Parts used in the repair or renovation of the following exempt tangible personal property:
 - tooling or equipment used or consumed exclusively in the performance of an aerospace or electronics industry contract with the United States government;
 - tangible personal property used or consumed primarily and directly in farming operations;
 - snow making equipment, ski slope grooming equipment, and passenger ropeways;
 - hearing aids and hearing aid accessories.
- Sales of nonreturnable containers, labels, bags, shipping cases, and casing to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by the manufacturer, processor, wholesaler, or retailer.
- Purchases of lists or databases containing names and addresses that are used to send direct mail.
- Purchases or leases by a telephone service provider of equipment, machinery, or software are exempt if they have a useful economic life of one or more years and are used for the following telecommunication purposes:
 - enabling or facilitating;
 - 911 service;
 - maintenance or repair;
 - switching or routing; or
 - transmission.

Product-based Exemptions

A product-based exemption is based on the description of a product and is not based on who purchases the product or how the purchaser intends to use the product. Product-based exemptions do not require an exemption certificate.

The following are exempt:

- Isolated or occasional sales, if the sale is made by a person not regularly engaged in the business of selling that type of tangible personal property. The exemption does not apply to sales of tangible personal property for resale or the sale of a vehicle or vessel required to be titled or registered in Utah.
- The amount paid for a drug. A drug is defined as a compound, substance or preparation that is intended for the diagnosis, cure, mitigation, treatment or prevention of disease or is intended to affect the structure or function of the human body. Food, dietary supplements, alcoholic beverages, and prosthetic devices are not considered drugs.
- Sales or rentals of durable medical equipment, including parts used to repair the equipment and replacements.
- Sales or rentals of mobility enhancing equipment that is primarily used to provide or increase the ability to move from one place to another for a person with limited mobility.
- A prosthetic device, including repair or replacement parts. Corrective eyeglasses, contact lenses, hearing aids or dental prostheses are not considered prosthetic devices.
- Sales of hearing aids and hearing aid accessories, except batteries, and charges for labor and/or parts used in the repair or renovation of hearing aids and hearing aid accessories. Sales of hearing aid batteries are taxable.
- Forty-five percent of the sales price of a new manufactured home and 100 percent of the sales price of a used manufactured home.
- Fees charged for unassisted amusement devices.
- Sales through unassisted car washes and dry cleaning and laundry machines.
- Interstate sales delivered by common carrier or the seller to a point outside of Utah. A copy of the bill of lading, freight bill, form TC-757 or other evidence of out-of-Utah delivery must be kept by the licensed seller or retailer. If the property is delivered in the state of Utah to a consumer, the tax applies, regardless of its removal from Utah. See Tax Commission Rule R865-19S-44.
- Motor fuels and special fuels subject to Utah state fuel excise tax.
- Sales of hay.
- Exclusive sale of seedling plants, or garden, farm, or other agricultural produce, if sold during the harvest season by the producer, an employee of the producer, or by a member of the producer's immediate family.
- Sales of telephone service charged to a prepaid telephone calling card.
- Sales of newspapers or newspaper subscriptions.
- Sales of water in a pipe, conduit, ditch, or reservoir.
- Room and trailer space rentals for 30 consecutive days or more.
- Sales of currency or coinage that constitute legal tender of the United States or of a foreign nation.
- Sales of an ingot, bar, medallion, or decorative coin having a gold, silver, or platinum content of 80% or more and that does not constitute legal tender of any nation.
- Admissions to higher education athletic events.
- Sales of food and food ingredients, prepared food or alcoholic beverages by a church or a charitable institution if the items are not available to the general public.
- Sales of food and food ingredients, prepared food or alcoholic beverages by an institution of higher education if the items are not available to the general public and are prepaid as part of a student meal plan offered by the institution of higher education.
- Sales of food and food ingredients, prepared food or alcoholic beverages provided at a medical facility or a nursing facility for inpatient meals. See Tax Commission Rule R865-19S-61.

Additional Information

Goods Consumed by the Seller

Items consumed by the seller are subject to use tax on the amount of the seller's cost of the items, not the selling price. Items consumed by the seller include:

- items taken from a seller's inventory and used by the seller;
- samples given away for advertising; and,
- products consumed by employees without payment.

When making purchases for store use from local businesses, tax should be paid at the time of purchase. For example, office supplies and equipment, such as labels for internal accounting, cash register tapes, returnable containers, and furniture are taxable at the point of sale.

The seller may purchase grocery bags and sacks and other non-returnable packaging material tax free that go out the door with the customer.

No tax is due on items discarded because of spoilage, broken packaging, and similar incidents, because they are not considered as consumed by the seller.

The purchase of printed advertising inserts is taxable unless the inserts contain the name and publication date of the newspaper distributing the inserts and are included in and distributed with the newspaper. See Tax Commission Rule R865-19S-65.

Coupons and Rebates

Coupons and rebates are handled in the following manner:

- Coupons for which a seller is reimbursed by a third party, such as a manufacturer or distributor, do not reduce the amount subject to sales tax. The amount subject to sales tax is the sales price of the item before the value of the coupon has been deducted.
- An in-store coupon or a coupon issued by a seller for which no reimbursement by a third party is received is considered a reduction in the sales price. The taxable amount is the net amount paid for the item after deducting the value of the in-store coupon.
- Amounts of manufacturer's rebates, whether paid to the purchaser or retained by the dealer as a down payment, are not subject to tax.

Premiums and Gifts

A premium or gift given away with the sale of a product subject to tax is considered part of that sale, and the purchase of the premium or gift by the retailer is not taxable. Items given away without requiring a specific purchase and items given away as advertising are considered consumed by the retailer and the retailer must pay tax on the retailer's cost of those items.

Returned Merchandise

A customer who receives credit for returned merchandise is entitled to a refund of the sales tax. If a customer is given a partial refund or allowance, the customer is entitled to a refund of sales tax on the portion of the original sales price refunded.

Returned Checks and Bad Debts

Bad debts may be claimed only by a seller. A seller is entitled to a sales tax adjustment for returned checks and bad debts. Nontaxable amounts, such as cash back to the customer and exempt charges, must be deducted from the total amount of the returned check or bad debt amount to arrive at the net write-off amount. The amount of the adjustment to be claimed on the sales tax return is determined by dividing the net write-off amount by one (1) plus the tax rate adopted in the community at the time of sale.

For example, if the net write-off amount is \$100 and the tax rate is 6.5 percent, the amount of the adjustment to be claimed on the return is determined by dividing \$100 by 1.065, resulting in a claim of \$93.90.

If an item is repossessed, a credit may not be taken, with the exception of motor vehicle repossessions.

Special Events

When tax is included in the sales price of items sold at special events, the tax must be calculated separately. To determine the sales price without tax, the proceeds of an accounting period are divided by one (1) plus the tax rate adopted in the community where the special event was held. For example:

- Where the combined rate is 6.0%, divide by 1.060
- Where the combined rate is 6.125%, divide by 1.06125

Vending Machine Sales

Vending machine sales, such as machines that dispense soft drinks, gumballs, cigarettes or novelty toys, are taxed in the same manner as special event sales. Tax is included in the vended price. However, a seller of food and food ingredients or prepared food of \$1 or less has the option of paying tax on 150 percent of the seller's cost, including incoming freight costs. If this option is taken, the sale itself is exempt, but the taxable amount (150 percent of cost) must be reported as goods consumed on the return. If the vending machine is owned and serviced by a vending machine company, the tax is the responsibility of the vending machine company.

Returnable Containers

Deposits on returnable containers, bottles, pallets and drums are subject to tax. When containers are returned for refund of the deposit, sales tax should be refunded. Bottle deposits are exempt from tax when purchased with food stamps or Women, Infants and Children (WIC) coupons.

Food Stamps and WIC

Sales of food paid with federal food stamps or Women, Infants and Children (WIC) coupons are exempt from sales and use tax.

Videos and DVDs

Videotape and DVD rentals are taxed in the same manner as sales of tangible personal property.

Newspapers and Postage

Sales of newspapers and postage stamps are exempt. To qualify as a newspaper, publications must:

- be published daily or weekly;
- be intended for circulation among the general public;
- contain matters of general interest and must report on current events; and
- must not constitute a book when multiple issues are put together.

Purchases of regularly circulated newspapers, such as *The Salt Lake Tribune*, *Deseret Morning News*, *USA Today*, and local town papers such as the *Davis County Clipper*, are exempt from sales tax. Purchases of tabloids, such as *Enquirer*, *Star*, *Globe*, etc., are not considered newspapers and are taxable. Sales of magazines, such as *US News and World Report*, *Ladies Home Journal* and *Time*, are taxable.

Money Orders, Faxes and Photocopies

Money order fees and charges for sending or receiving faxes are not subject to sales tax. Photocopying charges are taxable.

Cigarettes and Tobacco Products

Any entity selling cigarettes and/or tobacco products must obtain a license (included on the general application form TC-69) for each selling location. Most sellers may apply online using OneStop Business Registration at **business.utah.gov/registration**. Civil penalties apply to any licensee selling to underage youth (under 19 years). Questions related to sales to underage buyers should be directed to your local health department.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette or tobacco products tax. Tobacco products tax is due from the first purchaser within Utah. If a retail store purchases directly from an out-of-Utah source not collecting the tax, the retail store must be registered and bonded, and remit the tobacco products tax along with form TC-553 on the last day of the month following each calendar quarter.

Cigarette tax is paid by purchasing stamps from the Tax Commission, which must be affixed to each package within 72 hours of being received. Stamps are only available to registered and bonded businesses. No cigarettes may be sold without a Utah stamp on each pack. Any cigarette package without the proper stamp is subject to a \$25 penalty and confiscation.

Application and registration for tobacco products and/or stamping is also made on the general application, form TC-69.

Trade-in on Manufactured Homes

Utah Code §59-12-104 provides for an exemption of 45 percent of the sales price of any new manufactured home and 100 percent of the sales price of any used manufactured home.

When there is a trade-in, the sales price subject to the exemption is calculated as follows:

1. Subtract any trade-in amount allowed from the original sales price. This difference is the net sales price.

2. Multiply the net sales price by the exemption allowed by law (45 or 100 percent) to determine the amount of the net sales price exempt from sales tax.
3. Subtract the amount computed in step 2 from the amount in step 1. This is the portion of the net sales price subject to sales tax.

For example, if a dealer accepts a trade-in at a value of \$8,000 against the purchase of a new manufactured home valued at \$60,000, the calculation would be as follows.

Original sales price	\$60,000
Less trade-in amount	- 8,000
Net sales price	\$52,000
Portion of net sales price exempt from sales tax ($\$52,000 \times .45$)	\$23,400
Portion of net sales price subject to sales tax ($\$52,000 - \$23,400$)	\$28,600

Starting a New Business

If starting a new business, see Publication 38, Doing Business in Utah tax.utah.gov/forms/.

Forms

The following forms are available at tax.utah.gov/forms/ or by calling the Tax Commission automated forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

- TC-51 – Nexus Questionnaire
- TC-55A – Claim for Refund of Motor Vehicle Fees or Sales Tax
- TC-61 – Utah Sales and Use Tax Return
- TC-61 Schedule PS – Point of Sale
- TC-61 Schedule PSD– Point of Sale Detail
- TC-61DF – Sales Tax Refund Coupon Booklet for Donated Food
- TC-61E – Municipal Energy Sales and Use Tax
- TC-61F – Tourism, Recreation, Cultural, Convention Facilities and Car Rental Tax Return
- TC-61FV – Tourism, Recreation, Cultural, Convention Facilities and Car Rental Tax Return, monthly
- TC-61N – Sales Tax Refund Request for Religious or Charitable Organizations
- TC-61P – Instructions for Filing Refund Claims for Sales Tax Paid on Pollution Control Facilities
- TC-61Q – Utah Sales Tax Sourcing Schedule
- TC-61T – Transient Room Tax Return
- TC-61W – Waste Tire Recycling Fee Return
- TC-69 – Utah State Business and Tax Registration Application
- TC-69B – Additional Business Locations for a Sales Tax Account
- TC-73 – Sales Tax Exemption Contract
- TC-85 – Agreement for Remitting through Electronic Funds Transfer (EFT)
- TC-160 – Application for Sales Tax Exemption for Religious and Charitable Institutions
- TC-719 – Sales Tax Exemption Affidavit for Authorized Interstate Carriers
- TC-721 – Exemption Certificate
- TC-721A – Sales and Use Tax Exemption Affidavit for Exclusive Use Outside Utah
- TC-721NR – Sales Tax Exemption Certificate for Non-Utah Retailers Accepting Delivery of Merchandise in Utah
- TC-738 – Petition for Redetermination
- TC-757 – Affidavit of Out-of-State Delivery
- TC-762 – Lease/Rental Sales Tax Affidavit

Sales Tax Publications

The following publications are available at tax.utah.gov/forms/ or by calling the Tax Commission forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

- Pub 5 – Sales Tax Information for Motor Vehicle/Marine Dealer/Body & Repair Shops
- Pub 25 – Sales and Use Tax General Information
- Pub 35 – Sales Tax Guidelines for Public and Private Elementary and Secondary Schools
- Pub 37 – Business Activity and Nexus in Utah
- Pub 38 – Doing Business in Utah
- Pub 40 – Personal Liability for Unpaid Sales, Fuel and Withholding Taxes
- Pub 42 – Sales Tax Information for Sales, Installation and Repair of Tangible Personal Property Attached to Real Property
- Pub 45 – Sales Tax Information for Nurseries, Florists, Landscapers and Related Industries
- Pub 53 – Sales Tax Information for Health Care
- Pub 54 – Sales Tax Information for Public Utilities
- Pub 55 – Sales Tax Information for Restaurants
- Pub 56 – Sales Tax Information for Lodging Providers
- Pub 58 – Utah Interest and Penalties

Internet Information

Utah State Tax Commission Website

www.tax.utah.gov

This site has links to:

- Forms and publications
- Online sales tax return filing
- OneStop Business Registration
- PaymentExpress
- Current and past sales tax rates
- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other States' Revenue Departments

State of Utah Website

www.utah.gov

This site has links to:

- Workforce Services (unemployment)
- Labor (worker's compensation)
- Commerce (corporations, DBA registration)

This publication is provided for general guidance only. It does not contain all sales or use tax laws or rules. If you need additional information, call (801) 297-2200 or

1-800-662-4335 (outside Salt Lake area), or send email to taxmaster@utah.gov.

Specific Information for Vehicle & Watercraft Dealers and Body & Repair Shops

Definitions

Vehicle dealer is defined in Utah Code §59-12-102 as any “person engaged in the business of buying, selling, or exchanging a vehicle.” The term includes lessors of vehicles who sell previously leased vehicles at termination of such leases. Vehicles include highway vehicles, off-highway vehicles, trailers, semi-trailers, watercraft, aircraft, and similar items.

Paying Sales Tax

Sales tax due on vehicle sales by Utah vehicle dealers must be paid with a dealer’s sales and use tax return, on or before the established due date.

On vehicles sold by dealers, neither dealers nor their customers may pay sales tax to the Division of Motor Vehicles (DMV) at the time of registration. Even in the case of customers registering vehicles purchased from vehicle dealers (including body/repair shops) licensed for sales tax purposes in Utah, the sales tax must be collected by the dealer and paid to the Tax Commission with the dealer’s sales and use tax returns. Purchasers of vehicles from other than licensed vehicle dealers must pay applicable sales tax to the DMV.

Determining Tax Base

The following items are taxable:

- charges for dealer preparation, commissions and similar fees;
- charges to customers for waste disposal, hazardous material handling or disposal, etc. (unless collection and payment of such fees is required by Utah or federal law);
- charges for vehicle theft protection packages if they include window etchings, glass engravings, security devices, or other modifications or additions to the vehicle;
- sales of extended warranties even though the sale of the vehicle may have qualified for exemption under the authorized carrier exemption;
- sales of extended warranties or service plans (tax must be charged at the time the warranty agreement is sold);
- towing charges (if in connection with a taxable service);
- amounts collected as deductibles at time of service; and
- document service fees.

Note: Sales of a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home, while subject to sales and use tax, are exempt from resort communities tax. However, sales of off-highway vehicles, snowmobiles and trailers are subject to resort communities tax.

The following items are nontaxable:

- amounts of manufacturer’s rebates, whether paid to the purchaser or retained by the dealer as a down payment;
- costs of labor and parts to honor claims against in-house warranties and service plans, or charges to third-party service companies for nationally honored plans;
- fees to transfer a warranty to a new owner;

- the separate charges for interest or insurance when a vehicle is sold on credit (**Note:** the total charge for lease of a vehicle is generally taxable);
- Utah safety inspection fees;
- county emission testing fees;
- separate charges for diagnostic testing services if no repairs are made as a result of the test;
- parking or storage fees;
- charges for Guaranteed Auto Protection (GAP) coverage plans that protect the purchaser in the event of certain property losses;
- sales of extended warranties if the sale of the vehicle qualified for exemption under the exclusive use outside of Utah exemption or out-of-Utah delivery exemption; and
- specific charges for amounts to be paid to the Utah State Tax Commission for titles, registrations and license plates on behalf of customers, including the fee for a temporary permit.

Towing Charges

What is Taxable

Towing charges in connection with the sale or repair of tangible personal property are taxable. For example, a towing company responds to a caller who requests that the towing company tow his car to their repair shop and fix his flat tire. The charges for towing services and repair are taxable, even if separately stated on an invoice.

What is Exempt

Towing charges, without any sales or repair, are not taxable. For example, a towing company responds to a caller who requests that her car be towed to a local garage for repair. Because the towing company only performed a service and did not repair any tangible personal property or make any sales, the transaction is not subject to tax.

Sales to Employees

Sales to employees are subject to sales tax.

Demonstrator Vehicles

Owners and licensed sales staff can be assigned a demonstrator vehicle without being assessed sales or use tax. Rental charges for demos are subject to tax. Rental charges include charge backs, whether or not formally designated as a rental. For more information, see Tax Commission Rule R865-19S-82.

Paint, Parts and Other Purchases for Resale

Businesses repairing and servicing vehicles are not required to pay tax on their purchases of items that are sold and become an ingredient or component part of the customer’s vehicle. Some examples of nontaxable purchases include: lubricants; welding rods; paint, wax and lacquers used in painting or polishing vehicles; body filler; repair parts; sublet repair labor; paint hardener and rust preventatives.

Consumable Shop Supplies

Tax must be paid on purchases of items used or consumed by the body/repair/service shop, even though a separate charge is made to the customer for such items. Purchases of the following items are taxable to the shop, since they do not become an ingredient or component of the vehicle being repaired or serviced:

- equipment, tools and dies, even though expendable and charged to the customer;
- sandpaper, tape, masking paper, and similar supplies;
- paint thinners and accelerants;
- chemicals and solvents used for cleaning parts or tools;
- parts or supplies used for public relations or advertising purposes (e.g., parts to repair a potential customer's vehicle);
- grinding wheels and compounds; and
- oxygen, acetylene, argon, carbon dioxide, helium, etc.

Cost of Parts

Cost of parts need not be considered for tax when used to repair a vehicle recently sold under an implied warranty and/or to keep the customer's good will.

Lease Transactions

1. The gross amount of all payments under a lease agreement are subject to the tax, with the exception of the fee-in-lieu of property tax and insurance charges.
2. Up-front payments are taxable to the extent they are part of the purchase or lease price. The portion of up-front payments attributed to nontaxable charges, such as payoffs of previously existing obligations, license/registration/titling fees, etc., are exempt.
3. Lessors are responsible for the tax on payments they receive or credit against the lease and are also responsible for collecting tax on the sale of vehicles at lease termination.
4. Dealers are responsible for tax on payments they receive that are not forwarded to the lessor.
5. A lease that includes a payoff of a previously existing obligation or refinancing by a lease transaction in which title is vested in the lessor constitutes a taxable lease. This is true unless the transaction fits the criteria excluding sale-leaseback transactions from the definition of retail sales in Utah Code §59-12-102.
6. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.
7. The trade-in credit for an owned vehicle is allowed against the typical lease situation if the trade equity reduces the periodic lease payments to the lessor.

Courtesy Delivery

In-state Dealer Transactions

The dealer making the sale must charge, collect and remit the sales tax at the tax rate applicable to its business location when another in-state dealer makes a courtesy delivery for the seller.

Out-of-Utah Dealer/Manufacturer's Transactions

A Utah dealer is responsible for collecting Utah sales or use tax when making courtesy deliveries for an out-of-Utah dealer or manufacturer if the Utah dealer assists the purchaser in registration and titling. The local dealer should not issue a dealer report of sale, but Utah sales tax must be collected by the dealer and paid directly to the Tax Commission at the time of registration.

Exemptions

Farmers

Repair parts and labor for farm tractors and equipment (not including registered vehicles) are exempt from sales and use tax. The seller must have an exemption certificate on file. Implement of Husbandry certificates for off-highway farm machinery are not considered registration. Sales and repairs of registered vehicles are not exempt under the agricultural producer exemption.

Interstate Sales

Sales to consumers are exempt from Utah sales tax when the vehicle or merchandise is delivered by a Utah dealer to an out-of-Utah location. Delivery must be made by the dealer or by common carrier. The Affidavit for Exclusive Use Outside of Utah (form TC-721A) does not apply to these transactions. The dealer should attach a note to the temporary permit indicating out-of-Utah delivery along with the fee and mail it to the Tax Commission. The dealer must keep a verification of delivery using form TC-757, Affidavit of Out-of-State Delivery. It is not necessary to send a copy of this form to the Tax Commission.

Authorized Carriers

The sales tax law allows an exemption for sales or leases of vehicles to, or use of vehicles by, an authorized carrier.

Authorized carrier is defined as "in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA)."

The exemption applies only to vehicles with a gross vehicle weight of 26,001 pounds or more. This weight restriction is interpreted as meaning the maximum gross laden weight of the vehicle, combination of vehicles, and load carried or drawn, for which the motor vehicle is registered.

In the case of aircraft, authorized carrier means the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate.

To document this exemption, use form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers.

Trailer Dollies

A trailer dolly (converter gear) is equipment consisting of wheels, at least one axle, and a fifth wheel, that is attached to the king pin of a semi-trailer to convert the semi-trailer to a full trailer. A trailer dolly is required to be licensed and registered as a separate trailer and used in combination with other qualified vehicles and would meet the qualification for exemption when purchased by an authorized carrier and operated pursuant to IRP and IFTA.

Multiple Trailers

Trailers and semi-trailers purchased separately from a power unit, or in numbers in excess of available power units, are allowed the exemption if purchased for use in combination with vehicles meeting the exemption criteria. However, a trailer purchased or leased for use as a temporary office, storage facility or other use not associated with highway transportation is not allowed the exemption.

Auxiliary Equipment

Auxiliary equipment purchased and permanently installed in or on a vehicle as part of a qualifying vehicle transaction is also exempt. The exemption only applies to sales or leases of vehicles. Equipment or other items for the vehicle acquired in transactions separate from the vehicle acquisition transaction will not qualify for the exemption. For instance, if the purchaser of a qualifying vehicle enters into a separate transaction to have a dump body added to a truck, a logo painted on the cab door, or a refrigeration unit installed in a trailer, these transactions would not qualify for exemption. If, on the other hand, the purchase from the vehicle dealer includes such things in a single transaction, the exemption would apply if the purchase of the vehicle qualifies.

Tax Commission form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers, must be used to verify the exemption.

Caution: A dealer may be held individually liable for the tax if it is evident the dealer was a party to a plan to improperly avoid the tax.

Nonresident Military Personnel Stationed in Utah

Military personnel stationed in Utah are not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption.

Nonresident Students Attending Utah Schools

A student living and attending school in Utah is not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption.

Resale/Re-lease

A completed exemption certificate must be on file to claim this exemption.

Trade-in Exemption

An allowance for a trade-in of tangible personal property on the purchase of a vehicle may be excluded from the amount on which the tax is computed. For the trade-in provisions of the Utah law to apply, the trade-in must be part of a single transaction and the transaction must involve only two parties. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.

A single transaction means both the trade-in of the old vehicle and the purchase of the new vehicle take place at the same time and are documented in the same contract, buyer's order and other paperwork. The transaction would involve a fixed specific allowance for the vehicle traded in, a fixed selling price for the new vehicle, a contractual obligation of the seller to both sell the new vehicle and accept the trade-in vehicle, and a contractual obligation of the purchaser to purchase a specific vehicle. The trade-in provisions with regard to the single transaction criteria would not be violated if the new vehicle is ordered from the factory and actual delivery of the new vehicle to the customer is consequently delayed.

The trade-in credit may be allowed if the person trading in a vehicle does not appear as the owner on the title to the trade-in; however, the Tax Commission will follow up on such transactions and assess the customer directly for any taxes due on the acquisition of the vehicle traded in. An owner of a vehicle recently acquired, but not yet titled in the buyer's name, may be required to show all applicable sales or use

taxes have been paid on the acquisition of the vehicle if the trade-in credit has been allowed.

Trades of services (e.g., advertising, legal, accounting, etc.), equity in real property, and items taken for sale on consignment are not allowable trades for reduction of the taxable base. A credit given for a trade on a future purchase is not part of the purchase transaction and no reduction for a trade is allowed for sales tax credit.

Do not overstate or duplicate credits on trade-downs or trades on nontaxable sales.

See Tax Commission Rules R865-19S-30 and R865-19S-72.

Donations to Exempt Entities

A dealer who donates a vehicle or other item, or who provides use of such to an organization that would be exempt if a sale had been made, is not required to either collect or pay sales/use tax on the value of the donated property or the use of the property.

Exclusive Use Outside Utah

Requirements for the Exemption to Apply

Utah Code §59-12-104 exempts sales of a vehicle required to be registered under the Motor Vehicle Act, a boat required to be registered under the State Boating Act, a boat, or an outboard motor if the vehicle, boat, boat trailer, or outboard motor is both not (1) registered in this state; and (2) used in this state except as necessary for transportation to the borders of this state. Completion of the Affidavit for Exclusive Use Outside of Utah, form TC-721A, is required to claim the exemption.

Qualifying/Non-qualifying Items – Marine

1. Only boats required to be registered under the provisions of the State Boating Act, Utah Code §73-18-7, qualify for the exemption. This would include both motorboats and sailboats as defined by the act. A motorboat is any vessel propelled by machinery, regardless of whether the machinery is the principal source of power. A sailboat is any vessel having one or more sails and propelled by the force of wind. In addition to the boat itself, the exemption will also be allowed for items that are part of the original boat sales transaction and are installed in or on the boat in a permanent manner. Such items, if so installed or attached, would include convertible tops, swim platforms, trim tabs, radios, stereos, speakers, depth finders, spot lights, running lights, antennas, auxiliary batteries, fuel tanks, water tanks, inboard engines, inboard/outdrives, auxiliary outboard mounting brackets, horns, winches, sails, sail halyards and similar installed or integral equipment.
2. A boat trailer, regardless of unladen weight, will qualify for the exemption. Also allowable are the winch, sideboards, spare tires, etc. attached to the trailer and part of the original sales transaction.
3. Any outboard motor, regardless of horsepower, fuel supply or energy source, will qualify. Also included are its remote control and fuel supply tank or battery when sold as part of the original sale of the motor.
4. Boats not required to be registered, such as kayaks, canoes, rowboats or inflatable boats, will not qualify unless specifically designed to be propelled by motor or sail.
5. Equipment that is not part of the original transaction for sale of the boat, motor and/or trailer, or not installed in a permanent manner to the boat, motor or trailer, will not qualify for exemption. Such equipment includes water

skis, fishing equipment, other water sports gear, anchors, fire extinguishers, safety equipment, life jackets, ice chests, tool kits, spare parts, camping gear, bumpers, flotation devices, ropes, paddles, etc. The law specifically indicates outboard motors are included. Inboard/outdrive units sold separately from the sale of a boat will not qualify. Sales of items not qualifying must be taxed.

6. Non-qualifying items must be separately stated and separately priced on the invoice or contract of sale to enable proper handling for sales tax purposes.

Credit Allowed for Other States' Tax

1. Most states allow credit for at least part of the sales or use tax legally due first to another state. Since sales tax is a tax on the transaction and not on the property, the tax is due at the point of sale. If the sale takes place in Utah and an exclusive use outside of Utah affidavit is completed by the purchaser in error or accepted by the dealer in error, no credit will be allowed by Utah for any tax paid to a state other than Utah, since tax was legally due first in Utah.
2. Utah will allow credit for tax properly due and paid first to a state other than Utah.

Reciprocity

1. Utah has reciprocal agreements with Idaho and Wyoming that allow a person having a primary residence in one state but employed in another to use a vehicle registered with the state of principal residence in the other state for purposes of commuting to the work place.
2. The agreements are specifically for registration of vehicles and do not waive any other fees or taxes levied by the respective states.

Out-of-Utah Deliveries

1. The Affidavit for Exclusive Use Outside of Utah does not support exemption for out-of-Utah deliveries of motor vehicles.
2. The seller must keep evidence of the out-of-Utah delivery to verify the exemption. Affidavit of Out-of-State Delivery, form TC-757, may be used as evidence of this exemption.
3. Frequent deliveries into another state may subject the seller to the other state's tax collection requirements.
4. The out-of-Utah delivery must be an essential part of the sale, and the seller must be obligated by terms of the sales contract to make physical delivery of the vehicle across a state border to the buyer. The seller must make that physical delivery. See Tax Commission Rule R865-19S-44.
5. If the purchaser brings the vehicle back to Utah for use, the vehicle may be subject to Utah use tax, with credit allowed for tax due and paid first to the other state.

Repossession Credits

Sales tax credit is allowed for repossessions of a motor vehicle provided that the seller collected the sales tax on the vehicle being repossessed and the seller resells the vehicle. Credit for tax on motor vehicle repossessions is allowed to the seller that collected the sales tax as well as a third-party seller that repossessed and resold the vehicle. For a third-party seller to obtain a sales tax credit from the Tax Commission, the seller that collected the sales tax must be out of business and not have any outstanding sales and use tax

liabilities.

Repossession credits are determined by the application of a ratio to the taxable base after a reduction for any down payment. The ratio is the unexpired portion (number of monthly payments not made) of the contract to the total length of the contract.

Example:

The repossession credit is reduced by all recoveries (gross amount before attorney or collection agency fees), including the amount realized through the resale of the repossessed vehicle, to arrive at the net taxable base. The net taxable base is then multiplied by the sales tax rate in effect on the date of the original sale to calculate the repossession sales tax credit. If the tax rate has changed since the original sale, divide the repossession sales tax credit by the current tax rate to calculate an adjusted net taxable base.

a. Total taxable base	\$30,000.00
b. Down payment	(\$5,000.00)
c. Balance of taxable base (line a minus line b)	\$25,000.00
d. Number of full months unpaid at time of repossession	40
e. Total contract period	60
f. Ratio (line d divided by line e)	0.6667
g. Credit before recoveries (line c times line f)	\$16,667.50
h. Amount recovered (includes re-sale proceeds)	(\$3,000.00)
i. Net taxable base (line g minus line h)	\$13,667.50
j. Tax rate from original sale	6.60%
k. Repossession credit (line i times line j)	\$902.06

Show the net taxable base or the adjusted net taxable base on the proper line of the current sales tax return and attach an explanation.

Make certain of the amount originally taxed (consider rebates, price adjustments, discounts, etc.) and the rate of tax. Special computations are required for contracts calling for balloon payments at the end of the contract.

Refund of Sales Tax on Repurchase of a Motor Vehicle

When repurchasing a motor vehicle from a retail customer, motor vehicle manufacturers should also refund sales tax paid at the time the vehicle was purchased.

A manufacturer may recover sales tax amounts refunded to a retail customer by including that amount on the adjustment line of its Utah sales tax return. All sales tax amounts included on the adjustment line must be accompanied by supporting calculations and the following information:

1. the name of the retail customer to whom sales tax amounts were refunded;
2. the name of the dealer from whom the retail customer purchased the vehicle;

3. the date of the original purchase;
4. the date the vehicle was repurchased by the manufacturer; and
5. the vehicle identification number of the repurchased vehicle.

Sales tax applies to any charges for the use of a vehicle (see “Determining Tax Base, Taxable Sales”).

A manufacturer recovering the sales tax amount refunded to a retail customer must maintain all paperwork for three years documenting the repurchase.

Vehicle Transfers to or from Trusts

Any transfers between a trust and its beneficiaries, trustees or members would be subject to sales tax, if all of the following conditions are met:

1. The trust has been established as a separate legal entity;
2. There is an actual transfer of ownership of the vehicle; and
3. There is consideration given or received in exchange for the vehicle.

Transfers to or from a trust may be in the form of a gift and no consideration is involved; therefore, the transfer would not be subject to sales tax. However, if consideration is involved, sales tax would be imposed on the transfer.